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In re Application of BREITENBACH et al
U.S. Application No.: 10/581,588
PCT Application No.: PCT/US2004/041561
Int. Filing Date: 09 December 2004
Priority Date Claimed: 09 December 2003
Attorney Docket No.: 03-061

For: PRODUCTS AND PROCESSES FOR
ESTABLISHING MULTI-TRANSITION
RELATIONSHIPS WITH CUSTOMERS OF
VENDING MACHINES

DECISION

This is in response to applicant's "Petition Under 37 CFR §1.47(a) to Request Acceptance of National Application Without Participation of One or More Inventors" filed 15 May 2007, which is being treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 09 December 2004, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 09 December 2004, applicant filed international application PCT/US2004/041561, which claimed priority of an earlier United States application filed 09 December 2003. The thirty-month period for paying the basic national fee in the United States expired on 09 June 2006.

On 02 June 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 16 February 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 12 March 2007, applicant filed an executed declaration.

On 17 April 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration filed 12 March 2007 lists three inventors who are not listed in the published international application.

On 15 May 2007, applicant filed the present petition under 37 CFR 1.497(d).

DISCUSSION

37 CFR 1.497(d) (effective 07 November 2000) states,

If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in 37 CFR 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see §3.73(b) of this chapter).

With regard to item (1) above, the requisite statements have been provided.

With regard to item (2) above, the requisite processing fee has been provided.

With regard to item (3) above, written consent of the assignee has not been provided.

Applicant is advised that the declaration filed 12 March 2007 is an improper composite declaration. The fact that pages 3 and 4 list the same information and that pages 5 and 6 list the same information suggests that individual pages from different documents were combined to create the submitted declaration subsequent to the execution of the different documents. Applicant must submit either: (1) a single complete declaration which is presented to and executed by all of the inventors or (2) multiple complete declarations, wherein each inventor's signature appears on at least one of the multiple complete declarations.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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